



SA No. 2120 of 2004



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**SA No. 2120 of 2004
and
CMP.No.18108 of 2004**

1.Nageswari,
w/o.Saravanaswamy
Karuppanna Line,
E.B.Colony,Perumapalayam,
Vasavi College Post, Erode.

Appellant(s)

Vs

1. Annakodi,
w/o.Periasami Gounder
Sevagoundanoor,
Periambuliyur Village, Bavani
Taluk

2.Santhamani,
D/o.Periasami Gounder,
Nocchikattuvalasu, Erode

3.PARVATHI,(died)
D/o.Periasamy Gounder, Sampath
Nagar, Erode-11

4.Kalyani,
D/o.Periasamy Gounder,
Karattupalayam, Pudur,
Vairamangalam Vill.Bavan

5.Parpana Gounder,
S/o.Perumal Gounder Opposite
Chinnasami Maligai, Bharat Cafe,
Bhavani Main Rd



6.P.Kaundiyappan (deceased)
S/o.Perumalgounder, 4/46,
Perumapalayam, Elavamalai Erode

7.P.Nagappan, (Died)
s/o.Perumal Gounder
D.No.-26, Thirunavukarasu
Nagarguniyamuthur
Coimbatore

8.Saraswathi,d/o.Doraisamy (now
reported she is died)
Nadauppalayam, Sithod
Village, Erode Taluk

9.Sakala Sampath,
S/o.Ramasamy,
Perumalpalayam, Elavamalai
Village, Erode Taluk

10.Annakodi,w/o.Ramasamy,
Perumapalayampudur, Jampai
Village, Bavani Taluk

11.Yasodha,d/o.P.S.Raju,
Crop Merchant,
Perumapalayampudur, Jampai
Village, Bavani Taluk

12.Vijaya,w/o.Meiyappan,
Maniyampalayam, Ayyampalayam
Pokavundapatti,
Bavani Taluk

13.Minor Kodeeswarar Rep.By
Vijaya, (mother)
Maniyampalayam Ayyampalayam
Post, Kavundapattibavani Taluk

14.Jayanthi,
w/o.Ramasamy,
8, Muniyappan Koil Street,
Kumilankuttai, Erode Taluk



15.N.Saraswathi W/o P.Kaundiappan
9/585a, Soorampalikkadu, Priyar
Nagar, Perumpalayam, Elavamalai
Po, Erode - 638 316.

16.P.K.Radha D/o P.Kaundiappan
Oorkinaru Street, Soorampattivasalu,
Erode-638 011

17.P.K.Saravanasamys/op.Kaundiapa
9/585 Soorampallikadu, Periyar
Nagar, Perumpalayam, Elavamalai
Po, Erode 638 316.

RR15 To 17 Brought on record as LR's Of The Deceased R6 Vide Order Of
Court Dt., 28.07.2011 Made in CMP.No.210 of 2011 in SA.No.2120 of 2004.

18.Kamaladevi
T9/304, Tvh. Aurora Township, 1126,
Trichi Road, Singanallur, Coimbatore
641005

19.SIVARAJA(died)
T9/304, Tvh. Aurora Township, 1126,
Trichi Road, Singanallur, Coimbatore
641005

20.DHANARAJ
T9/304, Tvh. Aurora Township,
1126, Trichi Road, Singanallur,
Coimbatore 641005.

RR18 To 20 Brought On Record As LR's Of The Deceased 7th Respondent
Vide Order Of Court Dt 12/07/2022 Made In Cmp.10633, 10634 And 10635
Of 2022 In SA.No.2120/2004 (CVKJ)

21.A.Ramesh
S/o. Arumugham, Ondikaaranpudur,
Villarasampatti Village, Erode 638
009.

22.MUTHULAKSHMI. S
W/o. Sivaraja 25/23, Kamala Rice Mill
Street, Pudhupalayam, Gobi Chetti



Palayam, Erode 638476.

23.Myvizhi.S

D/o. Sivaraja 25/23, Kamala Rice Mill

Street, Pudhupalayam, Gobi Chetti

Palayam, Erode 638476.

R3 died, R21 is B/R as LR of the deceased R3. , RR19 died, RR22 & 23 are B/R as LR of the deceased R19 vide court order dated 08/12/2023 made in CMP.No.21464,21466,21467,21470,21472,21743 of 2023 in SA.No. 2120 of 2004. (PDBJ)

Respondent(s)

PRAYER: Second Appeal filed under Section 100 of Code of Civil Procedure, prays to set aside the Judgement and decree dated 03.12.2003 passed by the learned I Additional District Judge, Erode in A.S.No.113 of 2002, reversing the judgement and decree dated 28.02.2002, passed by the learned I Additional Subordinate Judge, Erode in O.S.No.54 of 1996.

For appellant(s):	Mr.N.Surya Narayanan for Mr.R.Parthasarathy
For Respondent(s):	Mr. T.Murugamanikkam for M/s.zeenath Begum D.Sathya K.Ponmani For Rr1, 2 And 4 M/s. P.Kannankumar N.Palanikumar For R8 M/s.S.Arunachalam For R14 M/s.K.Selvakumar S.T.Bharathi Gowtham For Rr18 And 20 R5-died (exonerated Respondent) Vide Court Order Dt. 05/03/2015, In Cmp 184 To 186/2005) K.Selvakumar For Rr22 And 23(await Cmp No 21464 Of 2023) M/s.R.Srinath 5794/2021 For Rr21



Rr3, 6, 7 And 19 - Died (steps
Taken)

R9 - Sakala Sampath,

S/o.Ramasamy

R10 - Annakodi W/o.

Ramasamy

R11 - Yasodha S/o. P.S.Raju

R12 - Vijaya W/o. Meiyappan

R13 - Minor Kodeeswarar Rep.

By R12

R15 - N.Saraswathi W/o.

P.Koundiappan

R16 - P.K.Radha D/o.

P.Koundiappan

R17 - P.K.Saravanaswamy S/o.

P. Kaundiapa

Pvt Notice

Aos Not Filed

JUDGEMENT

The appellant has filed this appeal to set aside the Judgement and decree dated 03.12.2003 passed by the learned I Additional District Judge, Erode in A.S.No.113 of 2002, reversing the judgement and decree dated 28.02.2002, passed by the learned I Additional Subordinate Judge, Erode in O.S.No.54 of 1996.

2. Challenging the reversal findings of the first appellate court, the purchaser of the first item of the suit property, the 10th defendant, has preferred this appeal.



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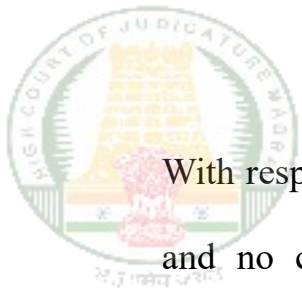
3. For the sake of convenience, the parties herein are referred to as they are ranked in the suit.

4. Before the trial court, the plaintiffs / respondents 1 to 4 herein, who are the legal heirs of deceased Periyasamy Gounder, filed a suit for partition claiming their lawful share in the suit properties against defendants 1 to 11. In the suit schedule, the properties are described as Item Nos. 1 to 4, consisting of agricultural lands and house properties. The plaintiffs contended that all the suit properties, Item Nos. 1 to 4, are joint family properties of one Perumal Gounder, who died intestate in the year 1972, leaving behind six sons and one daughter. The eldest son, Periyasamy, predeceased, leaving behind the plaintiffs as his legal heirs. Defendants 1 to 3 are also sons of Perumal Gounder. The other two sons died, leaving behind their legal heirs, who were impleaded as defendants 4 to 11. Since the plaintiffs are entitled to their lawful share and the defendants refused to allot the same, they issued a notice and, after its receipt, filed the suit for partition. They further contended that the second defendant created an encumbrance in favour of the 10th defendant in respect of Item No. 1 of the suit properties, but the same is not binding upon them. They prayed for partition.



5. The second defendant contested the suit stating that, during the lifetime of his father Perumal Gounder, an oral partition took place in the family. He further contended that Items 1, 2 and 4 are not joint family properties. According to him, Item No. 4 was purchased by him and is his absolute property. With respect to Item No. 1, he contended that it originally belonged to the Government. Under a lease, Perumal Gounder enjoyed the property. Thereafter, the lease stood in the name of his father. Subsequently, a registered lease deed was executed in favour of the second defendant in the year 1965. Owing to disputes among the sharers, a family panchayat was convened, wherein Item No. 1 was allotted to the second defendant through an unregistered Muchalika marked as Ex.B15. Pursuant to this, patta was granted in his name in the year 1995 (Ex.P24), and 'Ayyan patta' was also issued in his favour. He claimed that he enjoyed the property as its absolute owner and sold it to P.C. Palaniswami and Ramasamy under Ex.B26, a sale deed of July 1995. Thereafter, the 10th defendant purchased the said property from Palaniswami and Ramasamy, and patta was subsequently transferred in the name of the 10th defendant.

6. The defendants further contended that the 10th defendant paid the market value of Rs. 1,05,884/- as demanded by the authorities for the year 1996–1997, and the DRO passed a final order in favour of the 10th defendant. Thus, the 10th defendant claimed title over Item No. 1, measuring 1.22 acres.



With respect to Items 2 and 3, they were admitted to be joint family properties, and no contrary evidence was produced by the contesting defendants. As regards Item No. 4, the second defendant claimed absolute ownership by way of purchase.

7. Before the trial court, both parties adduced oral and documentary evidence. On the side of the plaintiffs, Exs.A1 to A16 were marked, and the second plaintiff was examined as P.W.1. On the side of the defendants, Exs.B1 to B45 were marked, and D.Ws.1 to 9 were examined.

8. Upon consideration of the evidence, the learned trial Judge granted the plaintiffs a share in Items 2 and 3 and dismissed the suit with respect to Items 1 and 4. Aggrieved by the dismissal relating to Items 1 and 4, the plaintiffs filed A.S. No. 113 of 2002 before the I Additional District Judge, Erode. The second defendant also filed a cross-objection. After hearing both sides, the first appellate court analysed the entire evidence and dismissed the cross-objection filed by the second defendant. The appeal filed by the plaintiffs was allowed, granting them a share in Items 1 and 4.

9. The learned first appellate judge held that the alleged panchayat Muchalika (Ex.B15) would not bind the plaintiffs. The appellate court also



disbelieved the version of the contesting defendants regarding the alleged panchayat since the plaintiffs had not participated in it. Further, with respect to Item No. 4, based on the evidence of D.W.1 (D2), it was revealed that the property is ancestral in nature and that Door No. 62 was purchased by his father. Hence, it could not be treated as the separate property of the second defendant. The court also noted that the alleged purchasers from the second defendant were his sons-in-law and that the sale deed appeared to be sham and nominal. The appellate judge further observed that although D.W.1 claimed title based on a sale deed allegedly executed by his father, such a sale deed was not produced. Moreover, the lease agreement relied upon by him did not confer any title. Consequently, the second defendant failed to establish his right and title over Item No. 1. Accordingly, the plaintiffs were granted shares in Items 1 and 4. Aggrieved by the findings of the first appellate court, the 10th defendant, who is the purchaser of Item No. 1 of the suit property, has preferred this second appeal.

10. This Court admits the second appeal on the following substantial question of law:

“Whether the first appellate Court was right in decreeing partition of Item No. 1 of the suit schedule property, whose title earlier vested in the Government and was subsequently conveyed to



the appellant through Tahsildar proceedings?”

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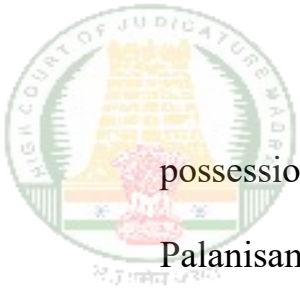
11. The learned counsel for the appellant, challenging the reversal findings of the first appellate Court, submitted that the appellate Court failed to consider that no document was produced by the plaintiffs to establish joint family nucleus in respect of Item No. 1 of the suit property, in contrast to Items 2 and 3. In the absence of any such evidence, the finding that Item No. 1 is also joint family property is wholly erroneous and liable to be set aside.

12. The learned counsel for the appellant further pointed out that the first appellate Court misapprehended the legal principle on which she had based her right and title in respect of item 1 of the suit schedule. The observation of the First Appellate Court that the appellant was seeking to establish her title through the mutation entries in the records of the Government and those mutation entries did not confer any title in itself is incorrect. The appellant herein had never canvassed her right and title based on the mutation entries. It was also based on the testimony of independent evidence. The First Appellate Court had misconstrued the defence of the appellant herein to mean that it was based on certain revenue proceedings. He also submitted that the learned first appellate Judge failed to notice the admitted fact that a conditional patta for Item No. 1



was originally granted in favour of Perumal Gounder and, after his demise, considering the continuous possession of the second defendant, patta was granted in the second defendant's name. Subsequently, as per the proceedings of the District Revenue Officer, the conditions attached to the patta were removed and an "Ayyan patta" was issued in favour of the second defendant. Based on the said proceedings, the second defendant became the absolute owner of Item No. 1. At no point of time was Item No. 1 treated as an ancestral or joint family property of the family of Perumal Gounder. The trial Court rightly appreciated these aspects, but the first appellate Court erroneously concluded that Item No. 1 also belonged to the joint family of Perumal Gounder. Such a finding, according to the appellant, is patently illegal and liable to be set aside for misappreciation of both facts and law.

13. It was further argued that the plaintiffs have never challenged the Ayyan patta issued in favour of the second defendant after removal of the name of Perumal Gounder, which itself shows that the property was not treated as a joint family asset at any point. The learned counsel contended that the trial Court failed to appreciate the Panchayat Muchilika, though unregistered, which could still be relied upon for collateral purposes, especially regarding possession and enjoyment. As per the Panchayat Muchilika, Exhibit P15, Item No. 1 was allotted to the second defendant. Although the plaintiffs denied the panchayat, the fact remains that the second defendant was in exclusive



possession under the Ayyan patta and subsequently sold the property to Palanisamy and Ramasamy, from whom the appellant (10th defendant) purchased the property. Therefore, the vendors' title and consequently the appellant's title were duly established. Without properly appreciating these materials, the first appellate Court erroneously concluded that Item No. 1 is ancestral property, making its findings perverse and liable to be set aside.

14. In reply, the learned counsel for respondents 1 to 4/plaintiffs submitted that Item No. 1 is not the separate property of the second defendant but was enjoyed along with other joint family properties by all legal heirs of Perumal Gounder. He relied upon Exhibit B15, the Panchayat Muchilika, wherein Item No. 1 is described as ancestral property of the family of Perumal Gounder and was also subjected to partition. This, according to him, conclusively establishes that Item No. 1 is joint family property. The first appellate Court rightly appreciated these materials and allotted shares to the plaintiffs, which requires no interference.

15. The learned counsel further submitted that under Exhibit A1, a notice was issued seeking partition, wherein respondents 1 to 4 specifically claimed Item No. 1 as joint family property. No reply was issued by the contesting defendants denying the joint family character or asserting the property as self-acquired. Instead, during the pendency of the dispute, the second defendant



executed a sale deed in favour of Palanisamy and Ramasamy, who are his sons-in-law, and thereafter they conveyed the property to the appellant, who is the daughter-in-law of the second defendant, under Exhibit B27. Mutation of revenue records effected during the pendency of the suit cannot bind the plaintiffs. The first appellate Court rightly held so, and therefore no substantial question of law arises in this appeal. Hence, prays to dismiss the appeal as no merits.

16. After considering the rival submissions, the point for determination is “whether Item No. 1 of the suit property is the separate property of the second defendant or whether it is joint family property of late Perumal Gounder, as contended by the plaintiffs.”

17. According to the appellant, Item No. 1 is the separate property of the second defendant, Goundiyappan, who, as absolute owner, sold the property to Palanisamy and Ramasamy under Ex.P26 dated 11.07.1995. The appellant (D10) thereafter purchased the property for valid consideration under Ex.P27 dated 23.08.1995. Patta was transferred in her name, and she has been in possession and enjoyment of the property as absolute owner. She also sold 20 cents from the said property to a third party on 28.08.1998. To establish her title, she relied upon the sale deeds and the final order of the District Revenue Officer transferring patta in her name, marked as Ex.P38. Mutation of revenue



records was effected on 04.08.1998. As per the Tahsildar's proceedings (Ex.B39), she traced her title to the second defendant, who is one of the sons of Perumal Gounder.

18. The second defendant contested the case by stating that Item No. 1 is not joint family property but originally belonged to the Government. Based on a public auction, conditional patta was granted to his father Perumal Gounder, who was the successful bidder. The auction was conducted by the State due to non-payment of consideration by one Kirubanathan.

19. Based on the above circumstances, on 22.05.1990, a conditional patta was granted in favour of Perumal Gounder after Item No. 1 of the suit property was brought to auction due to non-payment of consideration by one Kirubanathan. Through proceedings dated 22.05.1990, the Government granted the conditional patta subject to specific conditions. Thereafter, Perumal Gounder entered into a registered lease agreement with the second defendant on 30.06.1965, which is marked as Exhibit B-9. Relying upon this document, the second defendant contended that he was in possession and enjoyment of the property, cultivating the land even after the demise of his father. According to him, after Perumal Gounder's death, disputes arose regarding division of the family properties, particularly between the plaintiffs - the legal heirs of one of the sons of Perumal Gounder. Consequently, a panchayat was convened on



06.08.1987 in which Item No. 1 was allotted to the share of the second defendant. To substantiate this, he relied upon the unregistered Panchayat Muchilika marked as Exhibit B-15.

20. Thereafter, the second defendant continued in possession and enjoyment of the property. Considering his long possession, the revenue authorities granted patta in his favour on 22.03.1995, removing all earlier conditions under Revenue Standing Order 15/02/22, thereby issuing an Ayyan patta, which is marked as Exhibit B-4. On that basis, the second defendant claimed that Item No. 1 is his separate property. He asserted that it is neither ancestral properties nor joint family properties of the family of Perumal Gounder.

21. On perusal of Exhibit B-9, it is evident that it is a registered lease agreement executed by Perumal Gounder in favour of the second defendant on 30.06.1965 for a period of ten years. Furthermore, Exhibit B-24, the proceedings of the District Revenue Officer dated 22.03.1995, confirms that an Ayyan patta was granted to the second defendant. That order shows that the property originally belonged to the Government and was sold in auction, in which Perumal Gounder was the successful bidder on payment of Rs. 20/- towards sale consideration. After his demise, the second defendant and his brothers entered into a Panchayat Muchilika, by which Item No. 1 was allotted



to the second defendant. Considering his continuous possession and enjoyment, all conditions were removed and patta was granted in his favour. These revenue documents clearly establish that Item No. 1 is not ancestral property of the family of Perumal Gounder but originally Government land subsequently granted under conditional patta.

22. After the death of Perumal Gounder and on expiry of the lease term, the second defendant continued in uninterrupted possession. The panchayat Muchilika further supports his claim. Based on all these materials, the issuance of Ayyan patta in favour of the second defendant on 22.03.1995 remains unchallenged by the plaintiffs, as rightly pointed out by the learned counsel for the appellant. Therefore, at no point of time can Item No. 1 be considered as joint family property.

23. However, the Panchayat Muchilika is disputed by the plaintiff on the ground that they were not parties to the said Panchayat Muchilika, marked as Exhibit B-16. Therefore, according to the plaintiff, it would not bind them. They further contend that, based on the said Muchilika, the Ayyan patta granted in favour of the second defendant is also unsustainable.

24. Admittedly, the plaintiffs were not a signatory, but one of the Panchayatars was examined as DW-2. According to the second defendant, the



first plaintiff was already in possession of joint family property measuring an extent of 3.5 acres in Selagoundanur, hence she was not inclined to attend the panchayat. Hence, the plaintiff was not compelled to attend the Panchayat. It is also stated that the first plaintiff expressed the same before one of the Panchayatars, and this was recorded in the Panchayat Muchilika. To prove this, one of the Panchayatars was examined as DW-2.

25. On perusal of the evidence, it is revealed that the plaintiff Annakodi was not interested in attending the Panchayat, since she had already been given 3.5 acres of joint family property in Selagoundanur village. Therefore, considering the possession and enjoyment of the second defendant, the first item was allotted to the second defendant in the Panchayat. The plaintiff, however, contends that they did not participate in the said Panchayat. But the evidence of DW-2 clearly proves that the first plaintiff expressed her unwillingness to attend the Panchayat.

26. Furthermore, the first plaintiff was very much available at the time of trial but failed to enter the witness box. Instead, her daughter was examined as PW-1, who was only about 13 years old at the time of the alleged Panchayat. Therefore, the proper person to speak about the Panchayat was the plaintiff Annakodi herself. However, she was not examined as a material witness on the plaintiff's side.



27. As per the evidence of PW-2, the first plaintiff Annakodi had already stated that she was in possession of 3.5 acres of property in another village. This evidence was not contradicted or denied by Annakodi by examining herself during the trial. She is the person who directly knows the facts, but she failed to appear. Hence, the Court is entitled to draw an adverse inference against her absence, and the evidence of DW-2 is sufficient to hold that the plaintiff purposely avoided the Panchayat, since she had already been granted 3.5 acres of land in another village.

28. Furthermore, the said evidence has not been disputed by the plaintiff by producing any contra evidence. Therefore, their silence clearly proves that the first plaintiff had already been given 3.5 acres of land. The present claim of the plaintiff that the Panchayat Muchilika would not bind them is unacceptable. However, the first appellate court failed to properly appreciate the facts and circumstances of the case. Hence, the findings of the first appellate court on this aspect are liable to be set aside. Although the Panchayat Muchilika, marked as Exhibit B-16, is an unregistered document, it evidences the arrangement among the family members and is binding on them.

29. As discussed above, Item No. 1 of the property is not an ancestral property of Perumal Gounder. Originally, this property belonged to the



Government, and through appropriate proceedings, Perumal Gounder, as a successful petitioner, was granted the first item of the property with certain conditions. During his lifetime, he entered into a registered lease agreement with the second defendant for a period of ten years. Based on the said lease, the second defendant cultivated the land, and even after the demise of Perumal Gounder, he continued in uninterrupted possession. Considering this continuous enjoyment, an Ayyan patta was granted in favour of the second defendant, after removing all conditions, and also relying upon Exhibit B-9, the Panchayat Muchilika. The Ayyan patta was granted to the second defendant on 22-03-1995.

30. Till date, the plaintiffs have not challenged the said grant, as rightly pointed out by the learned counsel for the appellant. Therefore, at no point of time can Item No. 1 be treated as joint family property.

31. Though the family admittedly owned other ancestral properties, that by itself does not mean that Item No. 1 was jointly enjoyed. The plaintiffs are bound to prove that Item No. 1 was jointly possessed along with other family properties. For this purpose, they relied upon a recital in the alleged Panchayat Muchilika that described the property as ancestral. However, such a mere recital, without corroborating evidence, is insufficient to hold that Item No. 1 was joint family property.



32. On the other hand, the second defendant has proved that Item No. 1 is his separate property. As per the Ayyan patta issued by the Government on 22.03.1995, evidenced through Exhibit B-24, he became the absolute owner. Consequently, he sold the property to Palanisamy and Ramasamy under Exhibit P-26. The appellant (10th defendant) thereafter purchased the property under Exhibit P-27. Patta was subsequently transferred in her name. The authorities also collected a sum of Rs. 1,05,884/- towards market value of the land, as evidenced by Exhibits B-29 to B-37 from 2nd defendant.

33. The revenue authorities issued several notices to the second defendant demanding payment of land value, stating that failure to do so would result in cancellation of patta. Accordingly, the appellant (D-10) paid Rs. 1,05,884/-. Thereafter, patta was transferred in her name under proceedings dated 10.06.1998, by which all project conditions were removed and an Ayyan patta was granted in her favour, subject to conditions under Revenue Standing Order No. 15/224. As per the said order, the Government retains the right to resume the land whenever required. As on date, the patta stands in the name of the appellant, subject to those conditions. Therefore, Item No. 1 cannot be considered joint family property.



34. Accordingly, thus the substantial question of law is answered in favour of the appellant. The finding of the first appellate Court granting share to the plaintiffs in Item No. 1 is liable to be set aside. The plaintiffs are not entitled to any share in Item No. 1 of the suit properties. The Ayyan patta standing in the name of the 10th defendant / appellant shall remain subject to the conditions imposed therein.

35. In view of the above, this Second Appeal is allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

15-12-2025

DATED: 27-01-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 2120 of 2004

1. Nageswari,w/o.Saravanaswamy
Karuppanna Line,
E.B.Colony,Perumapalayam, Vasavi
College Post, Erode

Appellant(s)

Vs

1. Annakodi,w/o.Periasami Gounder
Sevagoundanoor, Periambuliyur Village,
Bavani Taluk



2.Santhamani,
D/o.Periasami Gounder, Nocchikattuvalasu,
Erode

3.PARVATHI,(died)
D/o.Periasamy Gounder, Sampath Nagar,
Erode-11

4.Kalyani,
D/o.Periasamy Gounder, Karattupalayam,
Pudur, Vairamangalam Vill.Bavan

5.Parpana Gounder,
S/o.Perumal Gounder Opposite Chinnasami
Maligai, Bharat Cafe, Bhavani Main Rd

6.P.Kaundiyappan (deceased)
S/o.Perumalgounder, 4/46, Perumapalayam,
Elavamalai Erode

7.P.Nagappan,s/o.Perumal Gounder
D.No.-26, Thirunavukarasu Nagarguniyamuthur
Coimbatore

8.Saraswathi,d/o.Doraisamy
Nadauppalayam, Sithod Village, Erode
Taluk

9.Sakala Sampath,
S/o.Ramasamy, Perumalpalayam, Elavamalai
Village, Erode Taluk

10.Annakodi,w/o.Ramasamy,
Perumapalayampudur, Jampai Village,
Bavani Taluk

11.Yasodha,d/o.P.S.Raju,
Crop Merchant, Perumapalayampudur,
Jampai Village, Bavani Taluk

12.Vijaya,w/o.Meiyappan,
Maniyampalayam, Ayyampalayam Pokavundapatti,
Bavani Taluk

13.Minor Kodeeswarar Rep.By
Vijaya, (mother)maniyampalayam Ayyampalayam Post,



Kavundapattibavani Taluk

14.Jayanthi,w/o.Ramasamy,
8, Muniyappan Koil Street, Kumilankuttai,
Erode Taluk

15.N.Saraswathi W/o P.Kaundiappan
9/585a, Soorampalikkadu, Eriyar Nagar, Perumpalayam,
Elavamalai Po, Erode - 638 316.

16.P.K.Radha D/o P.Kaundiappan
Oorkinaru Street, Soorampattivasalu, Erode-638 011

17.P.K.Saravanasamys/op.Kaundiapa
9/585 Soorampallikadu, Periyar Nagar, Perumpalayam,
Elavamalai Po, Erode 638 316 Rr15 To 17 B/r As Lrs Of
The Deceased R6 Vide Order Of Ct Dt., 28.07.2011
Made In Cmp.No.210/2011

18.Kamaladevi
T9/304, Tvh. Aurora Township, 1126, Trichi Road,
Singanallur, Coimbatore 641005

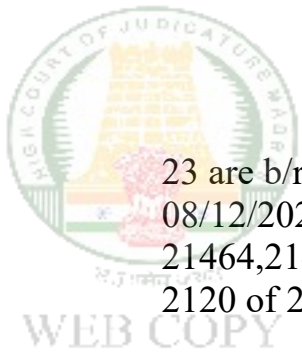
19.SIVARAJA(died)
T9/304, Tvh. Aurora Township, 1126, Trichi Road,
Singanallur, Coimbatore 641005

20.Dhanaraj
T9/304, Tvh. Aurora Township, 1126, Trichi Road,
Singanallur, Coimbatore 641005 Rr18 To 20 Brought On
Record As Lrs Of The Deceased 7th Respondent Vide
Order Of Court Dt 12/07/2022 Made In Cmp.10633,
10634 And 10635 Of 2022 In Sa.2120/2004 (cvkj)

21.A.Ramesh
S/o. Arumugham, Ondikaaranpudur, Villarasampatti
Village, Erode 638 009.

22.Muthulakshmi
W/o. Sivaraja 25/23, Kamala Rice Mill Street,
Pudhupalayam, Gobi Chetti Palayam, Erode 638476.

23.Myvizhi.S
D/o. Sivaraja 25/23, Kamala Rice Mill Street,
Pudhupalayam, Gobi Chetti Palayam, Erode 638476. r3
died,rr19 died, rr21 is b/r as lr of the deceased r3 and rr22,



23 are b/r as lrs of the deceased r19 vide court order dated 08/12/2023 made in cmp no 21464,21466,21467,21470,21472,21473 of 2023 in sa no 2120 of 2004(PDBJ)

Respondent(s)

For Appellant(s): M/s.R.Parthasarathy

For Respondent(s): M/s D.SATHYA FOR RR1, 2 and 4
Mr. N.PALANIKUMAR FOR R8
M/S.S.ARUNACHALAM FOR R14
M/S.K.SELVAKUMAR S.T.BHARATHI
GOWTHAM FOR RR18 and 20

K.SELVAKUMAR for rr22 and 23
M/S.R.SRINATH FOR RR21 RR3, 6, 7

ORDER

This matter is listed today under the caption “for being mentioned”.

2. Mr.N.Palanikumar, counsel for R8/D4 appeared.

3. Counsel for R8/D4 submits that in respect of 2nd item of property, it has to be allotted as per the proposition laid down by the Supreme Court in the case of *Vineeta Sharma Vs. Rakesh Sharma reported in AIR 2020 SC 3717*. Therefore, during the final decree proceedings, the trial Judge may be directed to consider the proposition laid down cited above while allotting shares to D4 who is the only daughter.

4. Counsel for the appellant submitted that already D4 was exonerated



before the 1st appellate court after setting her exparte before the trial court.

5. The trial court passed the decree on 28.02.2002. The trial Judge, at the time of passing final decree proceedings, take note of the decision in ***Vineeta Sharma Vs. Rakesh Sharma reported in AIR 2020 SC 3717*** and allot proportionate share to Defendant No.4/Respondent No.8 herein.

27-01-2026

nvsri

To

- 1.The I Additional District Judge, Erode.
2. The I Additional Subordinate Judge, Erode



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SA No. 2120 of 2004



T.V.THAMILSELVI J.

rri/nvsri

**SA No. 2120 of 2004
and CMP.No.18108 of
2004**

27.01.2026